Instrument prepared by:

VIRGINIA GAS AND OIL BOARD

Order recorded under:

CODE OF VIRGINIA § 45.1-361.26

VIRGINIA:

BEFORE THE GAS AND OIL BOARD

APPLICANTS:

CNX Gas Company on behalf of H.C. Bostic Coal Companies and Bernie Darin Dye.

DOCKET NO.

01-0821-0915-01

RELIEF SOUGHT:

Issuance:

A Supplemental Order for Disbursement of Escrowed Funds

Action:

Amending Prior Orders Affecting Drilling Unit AY-113, Tract 4 (a portion

thereof) (Referenced herein as "the Subject Drilling Unit")

Location:

Russell County, Virginia

Action Details:

- (1) To provide a calculation of funds, Unit Operator has deposited into the Escrow Account for Drilling Unit **AY-113** by Tract Subaccounts;
- (2) To provide each applicant, in simple terms, a complete month over month Royalty Accounting of unit production, costs, taxes and proceeds, depicting variables used in the calculation of royalty payments to the unit escrow account.
- (3) To disburse unit funds to the Applicants, in accordance with their Unit Ownership Interests relative to those funds deposited by the Unit Operator into Subject Drilling Unit's Escrow Subaccount for VGOB Tract(s) identified in Table 1.

REPORT OF THE BOARD FINDINGS AND ORDER

- 1. **Hearing Date and Place:** This matter came on for final hearing before the Virginia Gas and Oil Board (herein "Board") at 9:00 a.m. on October 19, 2010, at the Southwest Virginia Higher Education Center on the campus of Virginia Highlands Community College, Abingdon, VA.
- Appearances: Mark A. Swartz of Swartz Law Offices appeared for the Applicant; and Sharon M.B. Pigeon, Assistant Attorney General, was present to advise the Board.
- 3. **Jurisdiction and Notice:** Pursuant to Va. Code §§ 45.1-361.1 et seq., and in particular Va. Code §§ 45.1-361.21 and 45.1-361.22, the Board finds that it has jurisdiction over the establishment and maintenance of an escrow account, with tract subaccounts, for each of the coalbed methane gas drilling units established by the Board through its field rules that are subject to a Board pooling order. Further, the Unit Operator is required to deposit, as applicable, those funds specified in Va. Code § 45.1-361.21.D., 45.1-361.22.A.2, 45.1-361.22.A.3 and 45.1-361.22.A.4 into the applicable escrow tract subaccounts. The Board finds that: (1) while it does not have jurisdiction to resolve conflicting claims to the ownership of the Coalbed Methane Gas produced by the Unit Operator from wells located on Subject Drilling Unit, and (2) while it does not have jurisdiction to interpret agreements by and between

the Gas owners/claimants and/or the Unit Operators or to abridge or contravene the provisions of such agreements, (3) pursuant to Va. Code § 45.1-361.22.A.5, the Board does have jurisdiction and authority to disburse funds from the Escrow Account provided the Board has been provided with a final decision of a court of competent jurisdiction adjudicating the ownership of coalbed methane gas as between the conflicting claimants or an agreement among all claimants owning conflicting estates in the tracts in question or any undivided interest therein or a decision from a court appointed Arbitrator.

4. Prior Proceedings:

- 4.1 (a) On August 21, 2001, the Board executed its order pooling interests in the Subject Drilling Unit for the production of occluded natural gas produced from coalbeds and rock strata associated therewith (herein "Gas") in accordance with the provisions of Va. Code SS 45.1-361.21 and 45.1-361.22 (herein "Pooling Order"). The Pooling Order was filed with the Clerk of the Circuit Court of Russell County on January 10, 2002, in Deed Book 544, Pages 475 to 502 Instrument 0000171. The Supplemental Order was executed and recorded in with the Clerk of the Court, Russell County on February 10, 2004, in Deed Book 602, Pages 017 to 034 Instrument 0002832.
- 4.2 To the extent claims to the Gas were in conflict, pursuant to Va. Code S 45.1-361-22 payments attributable to said conflicting claims were ordered deposited by the Unit Operator into the escrow account established by the Pooling Orders (herein "Escrow Account"). According to the Pooling Orders and testimony, royalties attributable to Bernie Darin Dye and H.C. Bostic Coal Companies interest can be released as a result of due diligence efforts in the Subject Drilling Unit with an interest of 1/5 of 2/5 paid out in escrow with 70.4020 % paid to H.C. Bostic Coal Company and 20.5980 % to Bernie Darin Dye 2.6080 acres in a portion of Tract 4 became subject to the escrow requirements of the Pooling Order.
- 4.3 The Unit Operator's Miscellaneous Petition regarding a portion of Tract 4, a copy of which is attached to and made a part hereof, states under oath that H.C. Bostic Coal Company and Bernie Darin Dye as conflicting parties has been resolved through due diligence and should be disbursed in a portion of Tract 4, and escrow regarding this individual claim detailed herein, is no longer required and monthly royalty payments are to be made direct to the parties.
- 4.4 The Unit Operator gave notice to H. C. Bostic Coal Company and Bernie Darin Dye that the Board would consider its disbursement authorization at its hearing on October 19, 2010, and consider whether to: (1) amend the Pooling Order to provide for the disbursement a portion of funds on deposit in the Escrow Account attributable to a portion of Tract 4, as identified in the attached miscellaneous petition (2) delete the requirement that the Unit Operator place future royalties attributable to a portion of said Tract 4, the interests of Applicant identified in the miscellaneous petition in the Escrow Account, and (3) continue the escrow account under this docket number because parties other than those seeking disbursement under this order are subject to continued payments in the escrow.
- 4.5 The Unit Operator filed the attached accounting (Exhibit A) for Subject Drilling Unit's Escrow Account with the Board ("Accounting").

Findings:

5.1. Va. Code 45.1-361.22.5 provides:

The Board shall order payment of principal and accrued interests, less escrow account fees, from the escrow account to conflicting claimants within thirty days of receipt of notification of (i) a final decision of a court of competent jurisdiction adjudicating the ownership of coalbed methane gas as between them or (ii) an agreement among all claimants owning conflicting estates in the tracts in question or any undivided interest therein. The amount to be paid to the conflicting claimants shall be determined based on the percentage of ownership interest of the conflicting claimants as shown in the operator's supplemental filing made part of the pooling order that established the escrow account, the operator's records of deposits attributable to those tracts for which funds are being requested, and the records of the escrow account for the coalbed methane gas drilling unit. The interests of any cotenants who have not entered into an agreement shall remain in the escrow account.

5.2 Applicant has certified and represented to the Board that:

- (1) H.C. Bostic Coal Company and Bernie Darin Dye have been determined through due diligence are the owners of the gas and oil acreage estate underlying a 1/5 of 2/5 and percentages of certain coal seams in a portion of 2.6080 acres in VGOB Tract 4, of the Subject Drilling Unit; AY-113.
- (2) Net interests attributable and to be disbursed to Applicants are shown in Table 1,

	VGOB Approved Disbursement VGOB-01-0821-0915-01 AY-113 Table 1		As Giv	As Given					
			Acerage Fraction	Acreage Interest	Split Agreement	Acres	% Coal Excluding Pocahontas By CNX	% of Escrowed Pocahontas BY CNX	% of Escrowed to be Paid
		A portion of Tract 4							
Item	Tract	Disbursement Table							
						30.70117			
	4	John H. Dye Heirs, et al	13.04000						
1	4	H. C. Bostic Coal Co - (Coal except Pocahontas Seam)	1/5	2.6080	100.0%	2.6080	79.4020%		6.7450%
2	4	Bernie Darin Dye (Pocahontas Seam & OG)	1/5	2.6080	100.0%	2.6080		20.5980%	1.7498%
1000000	A150 STREET							100 00000000000000000000000000000000000	

6. Relief Granted:

For the reasons set forth in Paragraph 4 and 5 above, and based upon the Accounting and Table 1 above, the Escrow Agent is ordered to, within 10 days of receipt of this executed order to disburse funds for the unit and applicants detailed in Table 1 above.

Exhibit E to the Pooling Order, showing owners subject to escrow, is deleted and replaced with the Exhibit E attached to this order. Further, the Supplemental Order filed in this cause is hereby modified to delete the requirement that payments attributable to the conflicting coalbed methane gas ownership interests of those applicants indicated in Table 1 be deposited by the Unit Operator into the Escrow Account, <u>and</u>, because there are other owners subject to escrow under the Supplemental Order, the Escrow <u>Agent is directed to continue the Escrow Account</u> for Subject Drilling Unit. To the extent not specifically granted herein, any other or further relief is denied.

7. Conclusion:

Therefore, the requested relief and all terms and provisions set forth above in Paragraph 6 above be and hereby are granted and IT IS SO ORDERED.

8. Appeals:

Appeals of this Order are governed by the provisions of Va. Code § 45.1-361.9 which provides that any order or decision of the Board may be appealed to the appropriate circuit court and that whenever a coal owner, coal operator, gas owner, gas operator, or operator of a gas storage field certificated by the State Corporation Commission is a party in such action, the court shall hear such appeal de novo.

9. **Effective Date:** This Order shall be effective on the date of its execution.

BOOK - 732 PAGE 0271

DONE AND EXECUTED this day of following day of following majority of the Virginia Gas and Oil Board.

Chairman, Aradley C. Lambert

DONE AND PERFORMED this 15 day of the Board, 2011, by Order of the Board.

David E. Asbury, Jr

Principal Executive to the Staff

STATE OF VIRGINIA COUNTY OF RUSSELL

Acknowledged on this 15 day of 10 day of the Commonwealth of Virginia, appeared Bradley C. Lambert, being duly sworn did depose and say that he is Chairman of the Virginia Gas and Oil Board, and appeared David E. Asbury, Jr., being duly sworn did depose and say that he is Acting Principal Executive to the Staff of the Virginia Gas and Oil Board that they executed the same and were authorized to do so.

Diane Davis, Notary Public 174394

My commission expires: September 30,2013



BEFORE THE VIRGINIA GAS AND OIL BOARD

PETITIONER: CNX Gas Company LLC

DIVISION OF GAS AND OIL DOCKET NO: VGOB 01-0821-0915-01

RELIEF SOUGHT: (1) DISBURSEMENT FROM ESCROW REGARDING A PORTION OF TRACT(S) 4 (2) AND AUTHORIZATION FOR DIRECT

HEARING DATE: October 19, 2010

PAYMENT OF ROYALTIES

DRILLING UNIT: AY-113

RUSSELL COUNTY, VIRGINIA

MISCELLANEOUS PETITION

- 1. <u>Petitioner and its counsel:</u> Petitioner is CNX Gas Company LLC, 2481 John Nash Boulevard, Bluefield, West Virginia 24701, 304/323-6500. Petitioner's counsel is Mark A. Swartz, **SWARTZ LAW OFFICES, PLLC.**, 601 Sixth Avenue, Suite 201, P.O. Box 1808, St. Albans, WV 25177-1808.
- 2. Relief sought: (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow Agent(s) attributable to a portion of Tract(s) 4 as depicted upon the annexed Exhibit A; and (2) authorization to begin paying royalties directly to the party/parties listed is attributable to due diligence efforts: Bernie Darin Dye and H.C. Bostic Coal Company
- 3. <u>Legal Authority</u>: Va. Code Ann. § 45.1-361.1 <u>et seq.</u>, 4 VAC 25-160-140., and relevant Virginia Gas and Oil Board Orders ("Board") heretofore promulgated pursuant to law.
 - 4. **Type of well(s):** Coalbed methane.
- 5. <u>Factual basis for relief requested:</u> Royalties attributable to Bernie Darin Dye and H.C. Bostic Coal Companies interest that can be released is attributable to due diligence efforts. The Applicant and Designated Operator are also requesting that they be allowed to pay royalties directly to Bernie Darin Dye and H.C. Bostic Coal Company. The annexed Exhibit A, further specifies how said royalties are to be paid.
- 6. <u>Attestation:</u> The foregoing Petition to the best of my knowledge, information, and belief is true and correct.

CNX GAS COMPANY LLC

BY ITS PROFESSIONAL MANAGER

CNX GAS COMPANY LLC, PETITIONER

By:

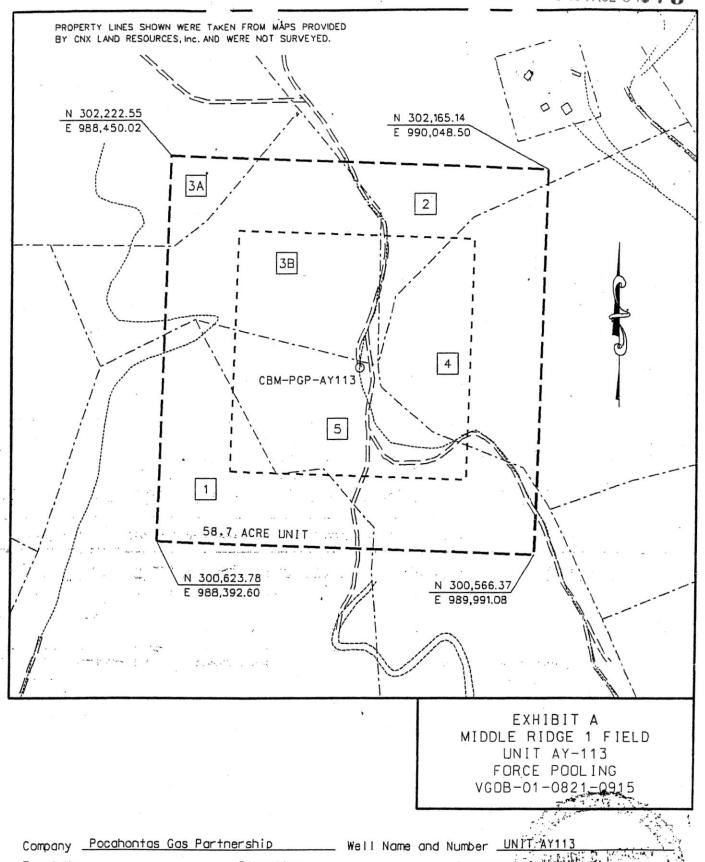
Anita D. Duty

Pooling Supervisor

CNX Land Resources, Inc. 2481 John Nash Blvd.

Bluefield, West Virginia 24701





Company <u>Pocahon</u>	tas Gas Partnership	Well Name and	Number <u>UNIT AY</u>	113
Tract No	Elevation		_ Quadranglet <u>\\\</u>	omdKer .
County Russell	District New Garde	en	Scale: 1 * ± 400	0' Date 7/16/01
This plat is a ne	w plat <u>X</u> ; an updated	d plat	_: or a fina	I plat
orm DGD-GD-7 _	Gaust ON	Days	E .	(Affix Sepi)
v. 9/91	Licensed Professional Eng	ineer or Licens	sed Land Surveyor	O TAIL TO

CNX GAS COMPANY LLC

Unit AY-113

Tract Identifications (58.7 Acre Unit)

- Buckhorn Coal Company Tr. 8 (Warder # 10 Tract) Fee
 Reserve Coal Properties Company Below Drainage Coal Leased
 Knox Creek Coal Corporation Above Drainage Coal Leased
 CNX Gas Company LLC Oil, Gas and CBM Leased
 10.30 acres 17.5468 %
- Buckhorn Coal Company (Corns & Fletcher Tract) Coal
 Knox Creek Coal Corporation Above Drainage Coal Leased
 CNX Gas Company LLC CBM Leased
 Heirs, Devisees, Successors or Assigns of B. W. Stras, et al. <u>OR</u> Heirs, Devisees,
 Successors or Assigns of S. J. Corn and Susan E. Corn <u>OR</u> Heirs, Devisees,
 Successors or Assigns of David Keene <u>OR</u> CNX Gas Company LLC,
 Swain & Renia Perkins <u>OR</u> CNX Gas Company LLC and Dorothy Perkins All
 Minerals except Coal

Dottie Gay Robinette Miller - Surface 5.28 acres 8.9949 %

- 3A. Buckhorn Coal Company (Jacob Fuller 453 Acre Tract) Coal Knox Creek Coal Corporation Above Drainage Coal Leased CNX Gas Company LLC CBM Leased CNX Gas Company LLC All Minerals except Coal Consolidation Coal Company Surface 1.83 acres 3.1175 %
- 3B. Buckhorn Coal Company (Jacob Fuller 453 Acre Tract) Coal Knox Creek Coal Corporation- Above Drainage Coal Leased CNX Gas Company LLC CBM Leased H. C. Bostic Coal Company, Inc. Surface and All Minerals except Coal CNX Gas Company LLC Oil, Gas and CBM 13.27 acres 22.6065 %
- 4. John H. Dye Heirs, et al. Fee
 Knox Creek Coal Corporation. Coal In Tiller and Above Coal Seams Leased
 CNX Gas Company LLC Oil, Gas and CBM Leased (40%)
 13.04 acres 22.2147 %
- 5. J. T. Helton Successors, et al. Coal (Except for Pocahontas Coal)
 J. T. Helton Successors, et al. Pocahontas Coal
 Arch Holland Dye or Successors, et al. All Minerals except Coal
 Margaret Lucille McGlothlin, et al. Surface
 14.98 acres 25.5196 %

Exhibit E Unit AY-113

Docket #VGOB-01-0821-0915-01 List of Conflicting Owners/Claimants that require escrow

		Acres in Unit	Interest in Unit	Percent of Escrow
ct #2, 5.2	8 acres			
Escro	ow due to Title Conflict			
COAL	. OWNERSHIP			
(1)	Buckhorn Coal Company P. O. Box 187 Tazewell, VA 24651	5.28 acres	8.9949%	
OIL 8	GAS OWNERSHIP			
* Owne	r of gas interest is undetermined.	5.28 acres	8.9949%	
	ble owners are listed below:			
(1)	B.W. Stras, et al Heirs, Devisees Successors or Assigns Address Unknown	5.28 acres	8.9949%	
	(OR)			
(2)	S. J. and Susan E. Corn Heirs, Devisees Successors or Assigns Address Unknown	5.28 acres	8.9949%	
	(OR)			
(3)	David Keene Heirs, Devisees Successors or Assigns Address Unknown	5.28 acres	8.9949%	
	(OR)			
(4)	Swain Perkins , et al	5.28 acres	8.9949%	
(1)	Alta Perkins Heirs, Devisees, Successors or Assigns			
	(a) Swain & Renia Perkins Rt.1 Box 136E Swords Creek, VA 24649	0.53 acres 1/10 of 1.20 acres	0.8995%	
(2) CNX Gas Company LLC 2481 John Nash Blvd. Bluefield, WV 24701	4.75 acres 9/10 of 1.20 acres	8.0954%	
	(OR)			
(5)	CNX Gas Company LLC 2481 John Nash Blvd. Bluefield, WV 24701	5.28 acres	8.9949%	
	AND			
	Dorothy Perkins 1595 Drybread Road Salyersville, KY 41465	5.28 acres	8.9949%	

Exhibit E Unit AY-113

Docket #VGOB-01-0821-0915-01 List of Conflicting Owners/Claimants that require escrow

		Acres in Unit	Interest in Unit	Percent of Escrow
Tract #3A, 1.8	83 acres			
COAL	OWNERSHIP			
(1)	Buckhorn Coal Company (Jacob Fuller 453 Acre Tract) P. O. Box 187 Tazewell, VA 24651	1.83 acres	3.1175%	
OIL &	GAS OWNERSHIP			
(1)	CNX Gas Company, LLC 2481 John Nash Blvd. Bluefield, WV 24701	1.83 acres	3.1175%	
Tract #3B, 13	.27 acres			
COAL	OWNERSHIP			
(1)	Buckhorn Coal Company P. O. Box 187 Tazewell, VA 24651	13.27 acres	22.6065%	
OIL &	GAS OWNERSHIP			
(1)	H.C. Bostic Coal Company P.O. Box 220 Swords Creek, VA 24649	13.27 acres	22.6065%	
Tract #4, 13.0	04 acres			
COAL	OWNERSHIP			
	John H. Dye Heirs, Devisees, Successors or Assigns et al.	13.04 acres	22.2147%	
(2)	(Coal exc. Pocahontas Seam(s))			
(a)	H.C. Bostic Coal Company P.O. Box 220 Swords Creek, VA 24649	7.8240 3/5 of 13.04 acres	13.3288%	
(3)	(Pocahontas seam(s))			
(a)	Sam R. Dye Address Unknown	2.608 1/5 of 13.04 acres	4.4429%	
(b)	Larry Compton 5770 1st Road Breman, IN 46506	0.1739 1/75 of 13.04 acres	0.2962%	
(c)	Betty Snead Rt.3 Box 54 Lebanon, VA 24266	0.1739 1/75 of 13.04 acres	0.2962%	
(d)	Robert Compton 4478 Island Road Bristol, TN 37620	0.1739 1/75 of 13.04 acres	0.2962%	

Exhibit E Unit AY-113

Docket #VGOB-01-0821-0915-01 List of Conflicting Owners/Claimants that require escrow

		Acres in Unit	Interest in Unit	Percent of Escrow
(e)	Edna Peck Address Unknown	0.5216 1/25 of 13.04 acres	0.8886%	
(f)	Ted Wilson Address Unknown	0.5216 1/25 of 13.04 acres	0.8886%	
(g)	O'Dell Wilson Address Unknown	0.5216 1/25 of 13.04 acres	0.8886%	
(h)	Narcie Dye Noel 766 Wysar Valley Rd. Honaker, VA 24260	0.5216 1/25 of 13.04 acres	0.8886%	
(i)	Bernie Darin Dye 1287 Strouth Creek Swords Creek, VA 24649	2.6080 1/5 of 13.04 acres	4.4429%	
OIL &	GAS OWNERSHIP			
	John H. Dye Heirs, Devisees, Successors or Assigns et al.	13.04 acres	22.2147%	
(2)	(Pocahontas Seam(s))			
(a)	Bernie Darin Dye 1287 Strouth Creek Swords Creek, VA 24649	2.6080 1/5 of 13.04 acres	4.4429 %	8.4948% Pay Coal in ocahontas Sear 20.5980%
NOTE	1/5 of 2/5 will be paid out in escrow.			20.000070
(3)	(Coal exc. Pocahontas Seam(s))			
(a)	H.C. Bostic Coal Company P.O. Box 220 Swords Creek, VA 24649	2.6080 1/5 of 13.04 acres		8.4948% y Coal <u>excludin</u> ocahontas Sear 79.4020%
(3)	(Coal exc. Pocahontas Seam(s))			
(a)	H.C. Bostic Coal Company P.O. Box 220 Swords Creek, VA 24649	2.6080 1/5 of 13.04 acres	4.4429%	
Tract #5, 14.9	8 acres			
Note:	Escrow due to unknown or unlocatable			
COAL	OWNERSHIP			
(1)	J.T. Helton Heirs, Devisees, Sucessors or Assigns, et al. (70 Acre Tract)	14.98 acres	25.5196%	
(a)	Arch Holland Dye Heirs, Devisees, Successors or Assigns Address Unknown	1.6643 acres 11.11% of 14.98 acres	2.8352%	

Exhibit E Unit AY-113 Docket #VGOB-01-0821-0915-01 List of Conflicting Owners/Claimants that require escrow

	Acres in Unit	Interest in Unit	Percent of Escrow
(b) J.T. Helton Heirs, Devisees, Successors or Assigns Address Unknown	0.8329 acres 5.56% of 14.98 acres	1.4189%	
OIL & GAS OWNERSHIP			
(1) Arch Holland Dye Heirs, Devisees, Sucessors or Assigns, et al. (70 Acre Tract)	14.98 acres	25.5196%	
(a) Arch Holland Dye Heirs, Devisees, Successors or Assigns Address Unknown	1.6643 acres 11.11% of 14.98 acres	2.8352%	
(b) J.T. Helton Heirs, Devisees, Successors or Assigns Address Unknown	0.8329 acres 5.56% of 14.98 acres	1.4189%	

1100658

VIRGINIA: IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF RU presented in said office, and upon the certificate of acknowledgment thereto annual control of the country of the certificate of acknowledgment thereto annual control of the certificate of acknowledgment thereto annual control of the certificate of the	SSELL COUNTY, 3-30, 2011. This deed was this day lexed, admitted to record at 3:47 o'clock PM, after payment of
\$ tax imposed by Sec. 58.1-802.	TESTE ANN S MOREVNOLDS OF ERK
Original returned this date to: VA Gas+Oil	BY: TESTE: ANN S. MCREYWOLDS, CLERK BY: Charles Charles Clerk

Exhibit A Tract-by-Tract Escrow Calculation Account Balances as of 7/31/10

Unit AY113 VGOB # 01-0821-0915-01 Acres Escrowed: 30.7012

	Amount Due Owners	00.001,000		CE GAD EA	40,010,00	\$1 722 GE
*	Pocahontas Seam 20.5980%					7 7498%
,	Coal Exc. Pocahontas 79.4020%			6.7450%		
	Interest			1/5	1/5	2
	Owner Acres			2.60800	2 ROROO	4.0000
	Acres	7,8240	27.30			
	Tract#	4				
	Owners	John H. Dye heirs - Oll & Gas	H G. Bostic Coal Company (Coal Event Bac Same Can	Uniparity (Coal Except Poc Seams	Bernie Darin Dye (Pocahontas Seam & OG)	

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Large File Transfer pilot for the VITA Enterprise Applications Division

Notice: This system is intended for non-sensitive data transfers.

NEW: State Employees must register below to send files.

Welcome shagy_1			🕜 Help 💢 Logout	
New Upload	Previous Uploads	Address Book Profile	Contact Administrator	
				Hide Menu 🕘
		Upload	Submitted	
File((s) were sent. Your tra	acking number is U2T8IOQO7LBEA1FX Pl	ease quote the tracking # if you have any problems	s with this transaction
		Add contacts to	your address book	
		Email Address	Status = Already in Address Book	
		AnitaDuty@consolenergy.com		
		dldavis@firstbank.com	E ₂₂	
		gloria.clark@dmme.virginia.gov	6	
		hilareymullins@consolenergy.com	G2	
		jwilliams@firstbank.com		